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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Zhu	)	Art Unit: 2132
	)	
Serial No.: 09/840,954	)	Examiner: Lanier
	)	
Filed: April 24, 2001	)	50P4401.01
	)	
For: **IP-BASED ARCHITECTURE FOR MOBILE COMPUTING NETWORKS**	))	June 13, 2005 750 B STREET, Suite 3120 San Diego, CA 92101
	)	
	)	

APPEAL BRIEF

Commissioner of Patents and Trademarks

Dear Sir:

This brief is submitted under 35 U.S.C. §134 and is in accordance with 37 C.F.R. Parts 1, 5, 10, 11, and 41, effective September 13, 2004 and published at 69 Fed. Reg. 155 (August 2004). This brief is further to Appellant's Notice of Appeal filed herewith.

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(1)   **Real Party in Interest**

The real party in interest is Sony Corp.

(2)   **Related Appeals/Interferences**

An appeal in 09/840,328 has been filed and may be related.

(3)   **Status of Claims**

Claims 6, 11, and 21 have been canceled and Claims 1-5, 7-10, 12-20, and 22-30 are pending and finally rejected. All rejected claims are appealed.

(4)   **Status of Amendments**

No amendments are outstanding.

(5)   **Concise Explanation of Subject Matter in Each Independent Claim, with Page and Figure Nos.**

As an initial matter, it is noted that according to the Patent Office, the concise explanations under this section are for Board convenience, and do not supersede what the claims actually state, 69 Fed. Reg. 155 (August 2004), see page 49976. Accordingly, nothing in this Section should be construed as an estoppel that limits the actual claim language.

Claim 1 recites an Internet packet (IP) mobile wireless communication system that includes a network operation center (NOC) 18 which in turn includes an application component 23, figure 1, page 7, second full paragraph. Plural link terminals 32, figure 1, page 9, lines 2 and 3 communicate with plural client devices

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14, figure 1, page 6, second full paragraph and receive IP packets therefrom in respective sessions. IP

packets are associated with information that is unique to the session, figure 2, page 11, lines 7-9. The

information includes at least one session name, and each session is associated with a unique shared secret

between a client device and a link terminal communicating therewith, id., lines 10-12. The information is

useful in providing data from the application component in IP packet format from the NOC to a client device

moving relative to the link terminals by providing at least one IP packetized data stream to the client device

using a first link terminal and then continuing to provide the data stream to the client device from a second

link terminal as the client device moves, figure 3, page 12, first full paragraph. Logic at a local link terminal

strips the session name from messages from a client device, page 9, first full paragraph.

The references above are incorporated herein. Claim 10 sets forth a mobile wireless IP- based

communication network for providing up to the minute subscription services to client devices. The network

includes a network operation center (NOC) and plural base stations 14, figure 1, page 6 communicating with

the NOC and in wireless communication with client devices communicating with the network. The NOC

provides subscription services in IP format to client devices via base stations in a session. A base station can

receive messages, including IP packets and unique session names, from a client device, and the messages are

encrypted with a shared secret. The network permits the client device to roam around the network in the

midst of the session substantially without interruption thereof. The location of a client device is tracked and

subscription services provided thereto based on the location.

The references above are incorporated herein. Claim 18 recites a method for providing subscription

services to client devices via a wireless IP network. The method includes sending an IP-packetized data

stream to a first link terminal that generates a unique session name. The method also includes providing the

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data stream to a wireless client device in wireless IP communication with the first link terminal, and, as the client device moves away from the first link terminal toward a second link terminal, handing off the data stream from the first link terminal to the second link terminal, such that the data stream is provided to the client device via the second link terminal. The method also includes stripping away the session name at the first or second link terminal from messages received from the client device. The client device is tracked to determine its location, and subscription services are provided to the client device based on its location.

(6)   Grounds of Rejection to be Reviewed on Appeal

         (a)   Claims 1-5, 8, and 9 have been rejected under 35 U.S.C. §103 as being unpatentable over Ala-Laurila et al. (USPN 6,587,680) in view of Bayeh et al. (USPN 6,098,093).

         (b)   Claims 7, 10, 12-20, 22-25, 29, and 30 have been rejected as being unpatentable over Ala-Laurila et al. in view of Bayeh et al. and further in view of Rautila et al. (USPN 6,549,625).

         (c)   Claims 26 and 28 have been rejected as being unpatentable over Ala-Laurila et al. in view of Bayeh et al. and further in view of Ladue, USPN 6,070,070.

(7)   Argument

         As an initial matter, it is noted that according to the Patent Office, a new ground of rejection in an examiner's answer should be "rare", and should be levied only in response to such things as newly presented arguments by Applicant or to address a claim that the examiner previously failed to address, 69 Fed. Reg. 155 (August 2004), see, e.g., pages 49963 and 49980. Furthermore, a new ground of rejection must be

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approved by the Technology Center Director or designee and in any case must come accompanied with the

initials of the conferees of the appeal conference. id., page 49979.

The rejection of Claim 1 proposes to modify Ala-Laurila et al. to strip session names from packet

headers as taught in Bayeh et al. "to determine if a session has been created and if not, to create a new

session as taught in Bayeh et al." The rejection relies on teachings in the primary reference, cols. 4 and 5,

along with col. 10, lines 22-25 of Bayeh et al.

Unfortunately for the *prima facie* case, Ala-Laurila et al., and in particular in the relied-upon sections

of columns 4 and 5, does not appear to have any reason to use session names at all, much less to strip them,

so the rationale for stripping session names in Bayeh et al. is irrelevant to Ala-Laurila. More specifically,

Ala-Laurila is directed to easing the handover of a mobile telephone from one access point to another by

performing some of the Internet key exchange from old to new access point without involving the mobile

phone, using medium access control (MAC) messages (col. 5, lines 59 and 60). MAC messages are used

to determine which device has line access at any given time, see, for support, www.virtualschool.edu,

Glossary of Internet terms. Applicant does not believe that MAC messages have session names, but if even

they do, stripping any such session names in Ala-Laurila et al. following the teaching of Bayeh et al. plainly

would frustrate the entire point of Ala-Laurila et al., which is to ease access point handover. Stated

differently, with the (hypothetical) session names stripped from the MAC messages, the access points would

be unable to determine which mobile phone was associated with the keys being transferred between access

points, rendering Ala-Laurila et al. useless for its intended purpose and thus traversing the rejections, MPEP

§2143.01 (citing In re Gordon). No other messages appear in the primary reference from which session

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names might be stripped, so the reason in Bayeh et al. for stripping session names is irrelevant to the primary reference.

This accurate observation has been met with an unsupported conjecture in the final rejection that "Ala-Laurila et al. would benefit from the use of session numbers." But whether this speculation is true remains an abstract philosophical issue, because no prior art support exists for what is at best a guess as to how to improve Ala-Laurila et al. to meet the present claims.

The examiner also repeats the allegation that using untaught session IDs in the primary reference and then stripping those untaught session IDs would be obvious "to determine if a session has been created and if not, create a new session as taught in Bayeh", relying on col. 11, lines 20-26. But as explained above the reason Bayeh et al. strips session IDs bears no relevance to the purpose of Ala-Laurila et al. and indeed would appear to frustrate the purpose of the primary reference, which means that the requisite prior art suggestion to combine does not exist. Besides, the relied-upon section of Bayeh et al. cannot be used for the suggestion it purports to support in the first place, regardless of whether it is relevant to Ala-Laurila et al. This is because the relied-upon section simply mentions setting a flag to "true" is a session has been created. It says nothing about stripping anything from any other thing in any application whatsoever.

Turning to the rejection of independent Claim 10, the continued allegation that Rautila et al., col. 1, lines 34-65 and col. 2, lines 13-18 teaches location-based services continues to be wrong because it ignores the fact that Claim 10 is not merely reciting "location dependent services" but services that are dependent on a particularly recited location, namely, that of the mobile device. The details matter, and in Rautila et al. a position transceiver is located at a base station and transmits its position to a mobile device, which then retransmits the location of the position transceiver, not its own location, to access services. Thus, unlike

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Claim 10, the position transmitted by the mobile device in the cited reference is not its own position, but rather that of the position transceiver. The mistake being made in the rejection is that it reads limitations out of Claim 10, namely, "tracking" the location of the mobile device (something never done in the relied-upon sections of Rautila et al.) and then using the location of the mobile device, not some other location such as that of a position transceiver, to access services.

This observation has been met with the allegation that Appellant is arguing something that is not in claims, an allegation serving as something of a double whammy. First, the thing specifically pointed to by Appellant that is being "read out" of Claim 10 ("tracking" the location of the mobile device) is indeed recited in Claim 10. Second, a telephone call to the examiner revealed that even if the unclaimed and hence unlimiting limitation that the mobile device location is tracked by the mobile device transmitting it were added to Claim 10, it would still not be allowable in the Examiner's view, rendering the gripe in the Office Action about arguing unclaimed limitations a superfluous red herring.

Respectfully submitted,

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APPENDIX A - APPEALED CLAIMS

1.   An Internet packet (IP) mobile wireless communication system, comprising:
        at least one network operation center (NOC) including at least one application component;
        plural link terminals communicating with plural client devices and receiving IP packets therefrom in respective sessions, at least some IP packets being associated with information, the information being unique to the session, the information including at least one session name, each session being associated with a unique shared secret between a client device and a link terminal communicating therewith, the information being useful in providing data from the application component in IP packet format from the NOC to a client device moving relative to the link terminals by providing at least one IP packetized data stream to the client device using a first link terminal and then continuing to provide the data stream to the client device from a second link terminal as the client device moves; and
        logic at a local link terminal for stripping the session name from messages from a client device.

2.   The system of Claim 1, further comprising a respective data center incorporating each link terminal.

3.   The system of Claim 2, further comprising logic at at least one local link terminal for generating the shared secret.

4.   The system of Claim 3, wherein the session name is generated by the local link terminal.

5.   The system of Claim 2, further comprising a respective base station associated with each data center.

7.   The system of Claim 1, wherein a location of at least one client device is tracked and subscription services provided thereto based at least partially on the location.

8.   The system of Claim 1, wherein each client device includes a directional antenna and an IP transceiver electrically coupled to the antenna for communicating with at least one link terminal.

9.   The system of Claim 1, wherein the system has a data transmission rate between a client device and a link terminal in excess of one megabyte per second.

10.   A mobile wireless IP-based communication network for providing up to the minute subscription services to client devices, comprising:
        at least one network operation center (NOC); and
        plural base stations communicating with the NOC and in wireless communication with client devices communicating with the network, the NOC providing at least one subscription service in IP

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format to at least one client device via at least one base station in at least one session, the base station receiving messages including IP packets and at least one unique session name from at least one client device, the messages being encrypted with a shared secret, the network permitting the client device to roam around the network in the midst of the session substantially without interruption thereof, wherein a location of at least one client device is tracked and subscription services provided thereto based at least partially on the location.

12.   The network of Claim 10, wherein the network has a data transmission rate between a client device and a base station in excess of one megabyte per second.

13.   The network of Claim 10, wherein each base station is associated with a respective data center incorporating a respective link terminal, the link terminals communicating with the client devices and receiving IP packets therefrom in respective sessions, such that at least one IP packetized data stream can be provided to a client device using a first link terminal and then provision of the data stream to the client device can be undertaken from a second link terminal as the client device moves.

14.   The network of Claim 13, wherein the session names and shared secrets are generated by the link terminals.

15.   The network of Claim 13, wherein a link terminal strips the session name from messages from a client device.

16.   The network of Claim 10, wherein a location of at least one client device is tracked and subscription services provided thereto based at least partially on the location.

17.   The network of Claim 10, wherein each client device includes a directional antenna and an IP transceiver electrically coupled to the antenna for communicating with at least one base station.

18.   A method for providing subscription services to client devices via a wireless IP network, comprising:
            sending at least one IP-packetized data stream to at least a first link terminal generating a unique session name;
            providing the data stream to at least one wireless client device in wireless IP communication with the first link terminal;
            as the client device moves away from the first link terminal toward a second link terminal, handing off the data stream from the first link terminal to the second link terminal, such that the data stream is provided to the client device via the second link terminal;
            stripping away the session name at the first or second link terminal from messages received from the client device;
            tracking the client device to determine a location of the client device; and
            providing subscription services to the client device based at least in part on the location.

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19. The method of Claim 18, wherein the data stream is associated with a session and the method includes associating the session with [a] the unique session name generated by the first link terminal.

20. The method of Claim 19, further comprising encrypting at least portions of the session using a unique session shared secret generated by the first link terminal.

22. The method of Claim 18, further comprising providing the data stream at a transfer rate of in excess of one megabyte per second.

23. The method of Claim 18, wherein the data stream is at least one subscription service.

24. The method of Claim 23, wherein the service contains information tailored to the location of the client device.

25. The method of Claim 20, wherein the session name and shared secret are sent to the client device and stored thereat.

26. The method of Claim 18, further comprising generating accounting data associated with the client device based on a number of IP packets provided thereto, or a time period the client device communicated with the link terminals, or both.

27. The system of Claim 1, further comprising generating accounting data associated with the client device based on a number of IP packets provided thereto, or a time period the client device communicated with the system, or both.

28. The network of Claim 10, further comprising generating accounting data associated with the client device based on a number of IP packets provided thereto, or a time period the client device communicated with the network, or both.

29. The system of Claim 4, wherein the session name and shared secret are sent to the client device and stored thereat.

30. The network of Claim 10, wherein the session name and shared secret are sent to the client device and stored thereat.

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APPENDIX B - EVIDENCE

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

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APPENDIX C - RELATED PROCEEDINGS

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

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